

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF OREGON  
MEDFORD DIVISION

MICHAEL WALTER SMITH, et al.,  
Plaintiffs,

No. 1:13-cv-1201-CL

v.

MUTUAL OF ENUMCLAW INSURANCE  
CO.,

**ORDER**

Defendant.

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**PANNER, District Judge:**

Magistrate Judge Mark D. Clarke filed a Report and Recommendation (R&R), and the matter is now before this court. See 28 U.S.C. § 636(b)(1)(B), Fed. R. Civ. P. 72(b). Although no objections have been filed, this court reviews legal principles *de novo*. See Lorin Corp. v Goto & Co., Ltd., 700 F.2d 1202, 1206 (8th Cir. 1983).

I agree with the R&R that plaintiffs cannot bring an action

against defendant until they submit to examinations under oath as required by defendant's insurance policy. See Gerke v. Travelers Cas. Ins. Co. of Am., 815 F. Supp. 2d 1190, 1202 (D. Or. 2011).

**CONCLUSION**

Magistrate Judge Clarke's Report and Recommendation (#19) is adopted. Defendant's motion for summary judgment (#9) is granted.

IT IS SO ORDERED.

DATED this 12 day of February, 2014.

A handwritten signature in black ink, reading "Owen M. Panner", is written over a horizontal line.

OWEN M. PANNER  
U.S. DISTRICT JUDGE